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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/725,874	11/30/2000	David I. Poisner	219.38701X00 (9341)	9731

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JEFFERY B HUNTER  
BLAKELY, SOKOLOFF, TAYLOR, & ZAFMAN  
12400 WILSHIRE BOULEVARD  
SEVENTH FLOOR  
LOS ANGELES, CA 90025

EXAMINER	
LAO, LUN S	

ART UNIT	PAPER NUMBER
2644	

DATE MAILED: 07/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/725,874

**Applicant(s)**

POISNER, DAVID I.

**Examiner**

Lun-See Lao

**Art Unit**

2643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8, 16-23 and 33-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 16-23 and 33-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-8, 16-23 and 33-48 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### *Introduction*

1. This action is in response to the amendment filed on 02/22/2005. Claims 1 and 16 have been amended and claims 9-15 and 24-32 have been cancelled. Claims 34-48 have been added and claims 1-8, 16-23 and 33-48 are pending.

### ***Election/Restrictions***

2. Newly submitted claims 39-48 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons.

3. Restriction to one of the following inventions is required under 35 U.S. C. 121:

I. Claims 1-8, 16-23 and 33-38 drawn to an audio data processing system, classified in class 700, subclass 94.

II. Claims 39-48, drawn to automatic tone control, classified in class 381, subclass 101.

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I can be used to provide a field in the processing of digital data which represents an audio signal, whereas invention II having a control used to alter automatically the frequency response of the system so that a listener can be provided the most pleasing sound involving frequency control. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims are 39-48 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Drawings***

4. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings are hand drawing, the formal drawings are required.

Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: in fig. 3, SPKR (see specification page 6-7). Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the

Art Unit: 2644

sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

6. Claim 6 is objected to because of the following informalities: amended claim 6, lines 8 and 9, ">" appears to be -- ' --. Appropriate correction is required.
7. Claim 21 is objected to because of the following informalities: amended claim 21, line 21, ">" appears to be -- ' --. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-5, 8, 16-20, 23 and 33-37 are rejected under 35 U.S.C. 102(e) as being anticipated by Kuwaoka (US PAT. 6,449,519).

Art Unit: 2644

Consider claims 1 and 24, Kuwaoka teaches a sound generation arrangement for a computing system comprising:

a predetermined sound generation arrangement (see fig.14) to generate sound according to primary sound (the primary sound instructions are in the DVD player. The primary sound instructions generate the sampling frequency (1) to corresponding to a sampling frequency of 96khz and 192khz to instructs the controller 70 to select the connection to either 65a or 65b) instructions implemented in the computing system (see col.17 line 30-col. 18 line 23);

a monitor arrangement (fig.14) to monitor for predetermined evidence of occurrence of ancillary sound instructions (the ancillary sound instructions are in the DVD player to instruct the harmonic generation circuit 11 and see col.8 line 27-col. 9 line 57) which differ from said primary sound instructions (the primary sound instructions are in the DVD player. The primary sound instructions generate the sampling frequency (1) to corresponding to a sampling frequency of 96khz and 192khz to instructs the controller 70 to select the connection to either 65a or 65b and see col.17 line 30-col. 18 line 52)); and

an ancillary waveform library (25) arrangement containing predetermined ancillary waveforms (see col.10 line 6-col. 11 line 65), wherein

a predetermined sound generation arrangement (see fig.14) is adapted to use said predetermined ancillary waveforms (11 and see fig.3, 25) to emulate predetermined ancillary sounds (see fig.3, 25a) responsive to an ancillary sound instruction (11) as monitored by said monitor arrangement (see col.15 line 60-col.16 line 41).

Art Unit: 2644

Consider claim 16, it is the system claim corresponding to apparatus claim 1, and thus note claim 1 for rejection.

Consider claims 2-3, Kuwaoka teaches a sound generation (see fig.3, 11) arrangement of the monitor arrangement is a snoop arrangement (23-24, 27-28) adapted to snoop a predetermined communication path for occurrence of said ancillary sound instructions (the ancillary sound instructions are in the DVD player to instruct the harmonic generation circuit 11) and a sound generation arrangement (see fig.14) of the monitor arrangement is a snoop arrangement (23-24, 27-28) adapted to snoop a predetermined storage location for occurrence of said ancillary sound instructions ( the ancillary sound instructions are in the DVD player to instruct the harmonic generation circuit 11 and see col.10 lines 21-27).

Consider claims 17-18, these are the system claims of claims 2-3 and thus note the rejections of claims 2-3, respectively.

Consider claims 4-5, Kuwaoka teaches a sound generation arrangement (see fig. 14) of the monitor arrangement is arranged to monitor (see fig.3,27) a state of an ancillary sound generation arrangement (25) as indication of occurrence of said ancillary sound instructions ( the ancillary sound instructions are in the DVD player to instruct the harmonic generation circuit 11 and see col.8 line 27-64), and a sound generation arrangement the monitor arrangement (see fig.3, 24, 27-28) is responsive to an interrupt as evidence of occurrence of said ancillary sound instructions( the ancillary sound instructions are in the DVD player to instruct the harmonic generation circuit 11 and col.8 line 27-64).

Consider claims 19-20, these are the system claims of claims 4-5 and thus note the rejections of claims 4-5, respectively.

Consider claim 8, Kuwaoka teaches a sound generation arrangement (see fig.3, 11) of the sound instructions are instructions in accordance with a contemporary sound specification, whereas said ancillary sound instructions ( the ancillary sound instructions are in the DVD player to instruct the harmonic generation circuit 11) are instructions with a legacy sound specification (25 and col. 33 line 55-col.34 line 15).

Consider claim 23, it is the chipset claim corresponding to apparatus claim 8. Note apparatus claim 8 for rejection.

Consider claim 33, Kuwaoka teaches a sound generation arrangement for a computing system, comprising:

a monitor arrangement (see fig.14) to monitor for indication of occurrence of a predetermined legacy sound instruction (the predetermined legacy sound instructions are in the DVD player to instruct the harmonic generation circuit 11 and see col.17 line 30-col. 18 line 23); and

a legacy waveform library arrangement (see fig.3, 25) containing predetermined legacy waveforms, and adapted to use said predetermined legacy waveforms (25a-25h) to emulate predetermined legacy sounds (the predetermined legacy sound instructions are in the DVD player to instruct the harmonic generation circuit 11 and see col. 8 line 28-col. 9 line 57) responsive to a legacy sound instruction (see fig. 14, the legacy sound instructions are in the DVD player. The legacy sound instructions generate the sampling frequency (1) to corresponding to a sampling frequency of 96khz and 192khz to

Art Unit: 2644

instructs the controller 70 to select the connection to either 65a or 65b and see col.17 line 30-col. 18 line 23) indicated by said monitor arrangement (see figs 14 and 3 and col.17 line 30-col.18 line 52).

Consider claims 34-35, Kuwaoka teaches a sound generation arrangement of said monitor arrangement is a snoop arrangement adapted (see fig.14) to snoop a predetermined (11) communication path for occurrence of said legacy sound instructions (see fig. 14, the legacy sound instructions are in the DVD player. The legacy sound instructions generate the sampling frequency (1) to corresponding to a sampling frequency of 96khz and 192khz to instructs the controller 70 to select the connection to either 65a or 65b and see col.17 line 30-col. 18 line 23); and a sound generation arrangement (see fig. 14) of said monitor is a snoop arrangement adapted to snoop a predetermined storage (11 and see fig.3 and col. 8 line 28-col. 9 line 57) location for occurrence of said legacy sound instructions (see fig. 14, the legacy sound instructions are in the DVD player. The primary sound instructions generate the sampling frequency (1) to corresponding to a sampling frequency of 96khz and 192khz to instructs the controller 70 to select the connection to either 65a or 65b and see col.17 line 30-col. 18 line 52).

Consider claims 36-37, Kuwaoka teaches a sound generation arrangement of said monitor arrangement is arranged to monitor a state of an legacy sound generation arrangement (see fig.14) as indication of occurrence of said legacy sound instructions (see fig. 14, the legacy sound instructions are in the DVD player. The legacy sound instructions generate the sampling frequency (1) to corresponding to a sampling

Art Unit: 2644

frequency of 96khz and 192khz to instructs the controller 70 to select the connection to either 65a or 65b and see col.17 line 30-col. 18 line 52); and a sound generation arrangement of said monitor arrangement (see fig.14) is responsive to an interrupt as evidence of occurrence (11) of said legacy sound instructions (see fig. 14, the legacy sound instructions are in the dvd player. The legacy sound instructions generate the sampling frequency (1) to corresponding to a sampling frequency of 96khz and 192khz to instructs the controller 70 to select the connection to either 65a or 65b and see col.17 line 30-col. 18 line 52).

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 6-7, 21-22 and 29-30, 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuwaoka (US PAT. 6,449,519) in view of Barbore (US PAT. 6,647,451).

Consider claims 6, 7 and 38, Kuwaoka does not clearly teach a sound generation arrangement is adapted to operation in accordance with an Audio Codec (AC) '97 specification, and wherein said ancillary sound instruction is a pre-Ac '97 sound instruction, and a sound generation arrangement of the sound generation arrangement is provided at least partially as part of a chipset.

However, Barmore teaches a sound generation arrangement is adapted to operation in accordance with an Audio Codec (AC) '97 specification (see fig.6, 400), and wherein said ancillary sound instruction is a pre-AC' 97 sound instruction (410), and a sound generation arrangement of the sound generation arrangement is provided at least partially as part of a chipset (130) (see col.4 line 43-col.5 line 13).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Barmora into Kuwaoka to provide less space and cheaper circuit board.

As to claims 21-22, these are the system claims of claims 6, 7 and thus note the rejections of claims 6 and 7, respective.

### ***Response to Arguments***

12. Applicant's arguments filed on 02-22-2005 have been fully considered but they are not persuasive.

Regarding applicant's argument that Kuwaoka does not disclose ancillary sound instructions and primary sound instructions (see remarks, page 9. first paragraph), the examiner respectfully disagrees. The ancillary sound instructions, which are in the DVD player to instruct the harmonic generation circuit of Kuwaoka (see fig.14, 11 and fig.3 and col. 8 line 27-col.57 and col. 15 line 60-col. 16 line 36). The primary sound instructions is met by fig. 14, the primary sound instructions are in the DVD player. The primary sound instructions generate the sampling frequency of the element 1 corresponding to a sampling frequency of 96khz and/or 192khz. The primary sound

Art Unit: 2644

instructions generate the sampling frequency instructs the controller 70 to select either 65a or 65b ( see col.17 line 30-col. 18 line 52). Therefore Kuwaoka meets the ancillary sound instructions and primary sound instructions as claimed.

### ***Conclusion***

**13. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

15. Any response to this action should be mailed to:

Mail Stop \_\_\_\_ (explanation, e.g., Amendment or After-final, etc.)

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Facsimile responses should be faxed to:

**(703) 872-9306**

Art Unit: 2644

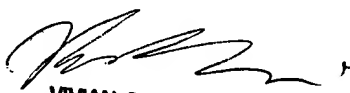
Hand-delivered responses should be brought to:  
Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lao,Lun-See whose telephone number is (571) 272-7501. The examiner can normally be reached on Monday-Friday from 8:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chin Vivian, can be reached on (571) 272-7848.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 whose telephone number is (571) 272-2600.

Lao,Lun-See  
Patent Examiner  
US Patent and Trademark Office  
Knox  
571-272-7501  
Date 6-24-2005

  
VIVIAN CHIN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600